

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

VII.

TINKIEWON LASHUA BERRY,

DEFENDANT.

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* CASE NO. CR. NO. 2:05cr131-A-2.

DEFENDANT'S MOTION FOR "VARIOUS RELIEF" AT THE
FEBRUARY 14, 2006 SENTENCING PROCEEDING

COMES NOW the Defendant; TINKIEWON LASHUA BERRY, via Defendant's Successor Counsel; ATTORNEY KEITH AUSBORN, and hereby submit to this HONORABLE COURT said "DEFENDANT'S MOTION FOR 'VARIOUS RELIEF' AT THE FEBRUARY 14, 2006 SENTENCING PROCEEDING"; of which said "DEFENDANT'S ATTACHED EXHIBITS 1 – 3 & DEFENDANT'S REVISED PRE – SENTENCE REPORT"; hereby are submitted in support of the Aforementioned Relief; hereby more specifically enumerated as follows:

- 1) "PRE - SENTENCING AT LOWEST GUIDELINE LEVEL"
- 2) "POST – SENTENCING W/GOVERNMENT'S 'DOWNWARD - DEPARTURE' AFTER MOTION IS MADE";
- 3) "HOUSE ARREST PRIOR TO SERVICE OF SENTENCE";
- 4) "SELF-SURRENDER CONCURRENT W/SERVICE OF SENTENCE";
- 5) "IMPOSITION OF MANDATORY DRUG & ALCOHOL ASSESSMENT & TREATMENT PROGRAM";
- 6) "RECOMMENDATION ORDER FOR PLACEMENT AT 'MAXWELL AIR FORCE BASE CORRECTIONAL FACILITY' FOR SERVICE OF SENTENCE", AND FINALLY,
- 7) "IMPOSITION OF ANY AND ALL OTHER 'ADDITIONAL, FAVORABLE, DIFFERENT & MISCELLANEOUS' RELIEF; IN LAW, AND/OR EQUITY, AS DEEMED BEFITTING".

2006 FEB 13 P 9:47

RECEIVED

RESPECTFULLY SUBMITTED this 13th day of February, 2006.



ATTORNEY KEITH AUSBORN
DEFENDANT'S COUNSEL (AUS010)

ATTORNEY KEITH AUSBORN – “LITIGATOR”
D/B/A “LAW OFFICE OF ATTORNEY KEITH AUSBORN”
1224 RYAN STREET
MONTGOMERY, ALABAMA 36107
(334) 264-9333 (WK.), (334) 264-9339 (FAX)
E-MAIL ADDRESS: KAILAWYER@AOL.COM

CERTIFICATE OF SERVICE

I, ATTORNEY KEITH AUSBORN, hereby certify that I have **SERVED** a copy of the foregoing upon the “**HONORABLE A. CLARK MORRIS; HONORABLE ZACHARY T. COLLINS; HONORABLE DOUG MATHIS & MR. TINKIEWON LASHUA BERRY**”, on this the 13th day of February, 2006, via “**HAND DELIVERY/FACSIMILE; BOX DELIVERY/FACSIMILE; HAND DELIVERY/FACSIMILE & HAND DELIVERY**”.



ATTORNEY KEITH AUSBORN
DEFENDANT'S COUNSEL (AUS010)

SANDRA D. BERRY

3564 Carter Hill Road Montgomery, AL 36111 (334) 558-3921

February 10, 2006

Dear Sir or Madam:

I would first like to thank you for taking the time to consider my request for my one and only child. There were so many people who said to me months ago to "start getting as many letters from everybody you can to speak on behalf of your son". I thought it sound like they were asking my to lie; and I didn't want to bring you lies from people who really didn't know my son like his Mother, Aunts, Uncles, Nieces, Nephews, etc. I want to bring you these people instead of a hundred letters of lies. I wanted to bring you the truth about my one and only son, Tink Berry.

Sir or Madam- please, please consider the truth about my son. He grew up around drug users, drug sellers, rapists, and men beating women. This is something he has been around his entire life. But yet, he has never been in trouble. He has seen his neighbors and friends do this all his life, but yet, he did not fall to this life of crime. He does not belong in jail for years. Please have mercy on him, his mother, and his seventy six year old grandmother. The mental and physical pain we are going to endure is going to be like being in sorrow for the length of time he is away. Please consider these things about my only child. He has never, ever given anyone or me any problems- even though he grew around crime from birth to 27 years old. He has pled guilty and accepted responsibility for his actions. I can promise you Tink Berry won't ever commit another crime. This is his first and last time.

My son is a very good father to his two little girls, whose ages are 2 and 4. He is not only a good provider, but also a true father in every sense of the word. I ask that his sentencing be at the lowest end of the guidelines. I would also like to ask you try to ensure that my son is able to:

- * Be allowed the opportunity to self-surrender.
- * Please allow him to be assigned to Maxwell.
- * In pretrial, he did all the right things by living his life free of crime and drugs. I ask you please keep this fact in mind during the sentencing of my son.
- * Please recommend placement in a halfway house so he can be near his family and two daughters.

Please have mercy on my son and his family. Thanks again for your consideration.

Sincerely,


Sandra Berry

February 9, 2006

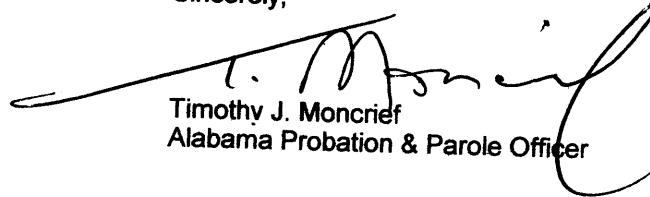
To: Honorable Chief District Judge Harold Albritton
U.S. District Courts
U.S. Courthouse
Montgomery, Alabama 36104

From: Timothy J. Moncrief, State of Alabama Probation & Paroles

In Re: Tinkwon Berry

Your honor I am writing this letter in the hope of expressing my feelings to you for your lenient judgement of the above referenced individual. I have known the young man, Mr. Berry, since he was a young child. I have never known him in my official capacity as a Probation Officer. I was previously married to his mother's sister and got to know him through my years with his aunt. In those years he was an obedient child to his mother and older family members. He was raised in a loving and caring family. Eventhough, he didn't finish his education as he should have he didn't parade himself around getting into trouble and bringing shame on his family. Tinkwon has never been a leader in the respect of what we understand and I feel that in this regard he may have got caught up with individual's who may have been more deceitful and cunning in leading him to do things which would eventually lead him into the kind of situations he finds himself in today. Not to say that he is slow but rather he lacks discernment of the intents of others and may have been approached by someone with the ideal to make some quick easy money which he probably viewed in his mind as not actually hurting anyone and a way to ease some of the financial burdens that were recently placed on him by the birth of his child. I know that he is sorrowful for his actions. The shame brought about to his family. The separation from his child and family that will come about as a result of his actions and the pain of not being there for his family for the space of time given. I pray that you will see that there is worth in this young man. That he can change his life for the better and become a more responsible person respecting the laws of this land and respecting himself and others. I believe that is possible based on the person I know. I believe that this experience will serve some good that will help re-forged some principles taught but compromised. I believe that this is the last time you will ever see this young man stand before you or anyother court of judgement. We all make mistakes and have lack in judgement at young ages. I thank the Lord that this mistake is not one that will cost him the rest of his life or the life of someone else. Therefore, I am confident that the God given position given to you to render such judgement is made not merely to judge but to exercise mercy as well. Thank You Sir for your time and patient in reading this letter.

Sincerely,



Timothy J. Moncrief
Alabama Probation & Parole Officer

-Feb. 8. 2006- 2:34PM- PEDIATRIC CARE GROUP

IMPORTANT *** PLEASE CALL AND VERIFY RECEIPT OF THIS FAX*** (334) 244-1414 No. 0435141 P. 1

DARIA JOY ANAGNOS, MD
DBA THE PEDIATRIC CARE GROUP
DINA WINSTON-DOCTSON, MD
350 TAYLOR ROAD SUITE 2200
MONTGOMERY, ALABAMA 36117 FAX: (334) 244-1577 PH: (334) 244-1414

DATE 2-8-06 TIME 2:40 FAX NUMBER DIALED 264-9339

NUMBER OF PAGES INCLUDING THIS ONE 3

FAX ATTENTION TO Mr. Keith Asbrin FROM Dee Hasberry
IMPORTANT *** PLEASE CALL AND VERIFY RECEIPT OF THIS FAX*** (334) 244-1414

IMPORTANT NOTICE: Tinkiewon Bercy letter

THE INFORMATION WHICH APPEARS ON THE FOLLOWING FACSIMILE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. THE INFORMATION IS PRIVILEGED AND CONFIDENTIAL. IF YOU ARE NOT THE INTENDED RECEIVER, DO NOT READ, COPY, DISTRIBUTE OR DISSEMINATE THE INFORMATION IN ANY FORM. SUCH ACTIVITIES ARE STRICTLY PROHIBITED AND PUNISHABLE BY LAW. IF YOU ARE THE INTENDED RECEIVER AND HAVE NOT RECEIVED ALL THE SHEETS OR IF YOU ARE NOT THE INTENDED RECEIVER, NOTIFY US IMMEDIATELY. THANK YOU.

IMPORTANT *** PLEASE CALL AND VERIFY RECEIPT OF THIS FAX*** (334) 244-1414

02-08-2006

TO WHOM IT MAY CONCERN:

I AM WRITTING IN REGARDS TO THE CASE OF TINKIEWON BERRY. TINK IS MY FIANCEE AND THE FATHER OF MY SOON TO BE TWO YEAR OLD DAUGHTER TIAON, HE IS PLEADING GUILTY TO THE CHARGE OF CONSPIRACY. I JUST WANTED TO WRITE AND LET YOU KNOW TINK MADE A HUGE MISTAKE ON HIS PART, NOT BECAUSE HE IS NOW IN JAIL BUT BECAUSE HE WASNT PATIENT. GOD WANTED HIM TO BE STILL INTILL A ANOTHER JOB CAME THROUGH, BUT HE WENT AHEAD AND MADE A TERRIBLE DECISION INSTEAD. I DONT EXCUSE HIS ACTIONS THEY WERE TOTALLY WRONG. THE UNDERCOVER CONFRONTED HIM ON TWO OCCASSIONS FROM MY KNOWLEDGE OF WHAT TINK TOLD ME AND THE PAPERWORK. THE SECOND INCIDENT HE COORPORATED. HE DID NOT KNOW THE OTHER GUYS DIRECTLY HE TOLD HIS FRIEND "DUKE" ABOUT THE GUY, AND "DUKE" TOLD THE OTHER TWO GUYS INVOLVED. ALL FOR 1,000\$ WE ARE NOW STUCK WITH THE FACT OF NOT HAVING HIM IN OUR LIVES FOR A LITTLE WHILE. I WILL MISS HIM BUT THE WORST PART WILL BE TRYING TO GET HIS GRANDMOTHER TO UNDERSTAND. SHE LOVES HIM SO MUCH. SHE IS IN HER SEVENTIES AND IF SHE COULD SERVE HIS TIME SHE WOULD WITH NO HESITATION. I HATE THE FACT THAT HIS DAUGJTER WONT HAVE HIM THERE BECAUSE THEY LOVE EACH OTHER SO MUCH. IT KILLS ME TO KNOW HE WONT BE HERE TO HELP ME RAISE HER FOR WHILE. BUT WE MUST ACCEPT IT I HOPE HE WILL BE SOON.

Home

TINK TOLD ME AFTER THE FACT THAT HE AGREED TO THAT SO HE COULD HELP ME INTLL SOMETHING CAME THROUGH WITH WORK. TIAONS BIRTHDAY WAS IN A FEW DAYS AND I WAS PLANNING HER FIRST BIRTHDAY BASH. HE TOLD ME HE HATED HE COULDNT HELP FINANCIALLY HE FELT LESS THEN MAN. HE SEEN ME GO TO WORK EVERYDAY AND WORK HARD AND NEW JOB OPTIONS FOR HIM WASNT COMING FAST ENOUGH HE SAID. I WAS SO DISAPPOINTED IN HIM TO EVEN PARTICIPATE IN ANYTHING LIKE THIS .DURING OUR YEARS OF DATING I SEEN THE GUY THAT REALLY WANTED TO JUST HANG OUT AND PARTY, BECOME A MAN. HE SEEN THE NEIGHBORHOOD GUYS, COUSINS, AND FRIENDS WITH NICE CARS, BIG EXPENSIVE RIMS, JEWELRY, AND NICE CLOTHES. AND HE REMAINED IN HIS WHITE T-SHIRTS AND NIKES AND BANGED UP CHEVY CAPRICE, (I HELPED PURCHASE I MUST SAY). TINK IS A REALLY GOOD PERSON ALWAYS HAS BEEN, DOESNT HAVE ENEMIES AND HASNT BEEN IN ANY SERIOUS TROUBLE WITH THE LAW. THATS ALOT TO SAY FOR A SOON TO BE 28YEAR OLD BLACK GUY. I LL ADMIT TINK CAN DRINK WAY TOO MUCH AND HAS ISSUES JUST LIKE EVERYONE DOES. I DONT WANNA PUT HIM ON A PEDESTAL BECAUSE HES NO BETTER THEN ANYONE ELSE. BUT I WILL SAY I LOVE HIM AND HE DESERVES A CHANCE. PLEASE I ASK OF YOU

TO BE COMPASSIONATE NOT JUST FOR HIM BUT FOR US HERE AT HOME
WAITING FOR HIM. I KNOW THAT IN YOUR PROFESSION YOU COME
ACROSS ALOT OF DIFFERENT TYPES WITH THEIR OWN STORIES TO TELL
BUT THIS IS TRULY FROM MY HEART. TRUST ME YOU OR ANYONE ELSE
WONT HAVE TO WORRY ABOUT EVER SEEING HIM IN ANYONES COURT
ROOM EVER AGAIN. THIS EXPERIENCE HAS TRUELY SCARED HIM AND
EVERYONE AROUND HIM THAT LOVES HIM.THANK YOU FOR YOUR TIME
AND ATTENTION,

SINCERLY

DELIA HASBERRY

A handwritten signature in black ink, appearing to read "Delia Hasberry". The signature is fluid and cursive, with a large, sweeping loop at the end.